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Franciscus L. A. J. Kamperman

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EXAMINER

DEGA, MURALI K

ART UNIT

PAPER NUMBER

3621

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,358	<b>Applicant(s)</b> KAMPERMAN ET AL.	
	<b>Examiner</b> MURALI K. DEGA	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) None is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Introduction***

1. Upon further review of the arguments provided by the applicant in the Appeal Brief filed 19 June 2009, the FINAL Office Action mailed 26 January 2009 has been withdrawn.

**PROSECUTION IS HEREBY REOPENED.** To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 C.F.R. § 1.1119

(2) initiate a new appeal by filing a notice of appeal under 37 C.F.R. § 41.31 followed by an appeal brief under 37 C.F.R. § 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 C.F.R. § 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

### ***Acknowledgements***

1. This Office action is in response to the appeal brief filed on 19 June 2009.
2. Claims 1-16 and 18 are pending.
3. Claims 1-16 and 18 have been examined.
4. This office action is assigned Paper No. 20090924. Paper No. is for reference purposes only.

***Specification***

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1), MPEP § 608.01(o), and MPEP § 2181 IV. and its discussion of C.F.R. § 1.75(d)(1). Correction of the following is required:

- a. “means for a usage right associated with the content item”, as recited in claim 15;
- b. “means to decompose the usage right ...”, as recited in claim 16.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-14 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

8. Based on Supreme Court precedent, and recent Federal Circuit decisions, a § 101 process must (1) be tied to a particular machine (or a particular apparatus) or (2) transform a particular article to a different state or thing. See *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008) (en banc). This is the Machine-or-Transformation Test ("M-T Test").

9. To meet prong (1), the method step should positively recite the other statutory class (the thing or product) to which it is tied. This may be accomplished by having the claim positively recite the machine that accomplishes the method steps. Alternatively or to meet prong (2), the method step should positively recite identifying the material that is being changed to a different state or positively recite the subject matter that is being transformed. For example, a method

claim that would *not* qualify as a statutory process because it fails the M-T Test would be a claim that recites purely mental steps.

10. In this particular case, even though a set of devices is mentioned in claim 1, the claim does not specify the use of a machine in performing the method steps. Thus, claim 1 fails prong (1) because the method steps are not tied to a machine. For example, “associating at least one usage right”, “decomposing usage right” and “signing each one of the set of...” can be performed by human beings without the use of a machine. Additionally, the claims fail prong (2) because the method steps do not transform the underlying subject matter to a different state or thing.

***Claim Rejections - 35 USC § 112 First Paragraph***

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claims 16 and 18 rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for some embodiments, does not reasonably provide enablement for the functional recitations of "arranged to" as recited in claim 16, "characterized in that" as recited in claim 16, and "able to handle" as recited in claim 18. The specification does not enable a person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. In particular, claims 16 and 18 do not invoke 35 U.S.C. §112 6th paragraph, these claims do not set forth any particular structure, and these claims *all* possible ways of performing the claimed functions. See

the 'Scope of Enablement Rejection' in *Ex parte Miyazaki*, 89 USPQ2d 1207 (B.P.A.I. 2008)(precedential opinion).

***Claim Rejections - 35 USC § 112 2nd Paragraph***

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. Claims 1-16 and 18 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with errors. Some examples follow:

15. Claim 1 recites “decomposing usage right ...” and “separately signing each one of the set ...” It is unclear if these are positive method steps as the recitation is after the phrase “characterized in that”.

16. Claim 2 recites the limitation "the partial rights " in line 2 of claim 2. There is insufficient antecedent basis for this limitation in the claim. The claim is indefinite because it is not clear to one of ordinary skill in the art if the Applicant is referring to “the partial right” that is different from “a set of partial rights” as recited in claim 1 or some other set of partial rights.

17. Claim 5 recites “the issuer”. There is insufficient antecedent basis for this phrase and it is unclear if “the issuer” is an issuer of content or issuer of rights.

18. Claim 6 recites “a set of devices”. The claim is indefinite because it is unclear to one of ordinary skill in the art if "a set of devices" is same or different from “a set of devices” recited in claim 1.

19. Claim 7 recites "minimum required protection level ...". The phrase is indefinite because - to one of ordinary skill in this art – the metes and bounds of the phrase cannot be reasonably determined. To support this position, the Examiner notes the following: First, the Examiner has carefully reviewed the original specification and cannot locate a lexicographic definition with the required clarity, deliberateness, and precision. The original specification recites "different protection levels ..." in line 9 of page 11, "more than two protection levels ..." in line 20 of page 11 and "minimum protection level includes but are not limited to..." in line 28 of page 11 but does not define what "minimum required protection level" is. Second, although the Examiner recognizes that each word within the phrase may have a particular meaning, the arrangement of these words within the context of this phrase does not reasonably apprise one of ordinary skill in this art the overall meaning of the claimed phrase. Third, the Examiner has again reviewed all documents of record in conjunction with MPEP §2141.03 including the original specification and claims. Therefore based at least upon the three points noted above and using the required precepts of English grammar, it is the Examiner's position that the phrase "minimum required protection level" (as used in the context of this particular claim) is neither lexicographically defined by Applicants nor known to those of ordinary skill in this art. However, if Applicants believe that the phrase is old and well known in the art, Applicants should (in their next appropriately filed response) expressly state on the record that the phrase is old and well known in the art and provide appropriate evidence in support thereof (*e.g.* a U.S. patent). Upon receiving (1) Applicants' express statement that the phrase is old and well known in the art and (2) sufficient evidence in support thereof, the Examiner will withdraw this particular 35 U.S.C. §112, 2nd paragraph rejection.

20. Claim 8 is also rejected as the claim recites "minimum required protection level ...." for the same reasons as noted above.

21. Claim 8 recites the limitation "the partial rights" in line 2 of claim 8. There is insufficient antecedent basis for this limitation in the claim. The claim is indefinite because it is not clear to one of ordinary skill in the art if the Applicant is referring to "the partial right" that is different from "a set of partial rights" as recited in claim 1 or same set of partial rights.

22. Claim 9 recites "subsequently sign information ..." However, it is not clear to one of ordinary skill in the art, if this "subsequently sign information ..." is different from "separately signing each one of the set ...." as recited in claim 1.

23. Claim 10 is rejected as the claim recites "subsequently sign at least one ..." It is not clear to one of ordinary skill in the art, if this "subsequently sign at least one ..." is different from "separately signing each one of the set ... ." as recited in claim 1.

24. Claim 11 recites "device participates as representing a different domain". It is not clear to one of ordinary skill in the art as to what "device participates" means.

25. Claim 12 recites "at least one of the device and the different device has been verified by the other device". It is unclear to the one of ordinary skill in the art as to what is the other device. Further, if "one of the device" is signing the partial right and transferring the signed partial right to "the different device", it is unclear as to where the "other device" is located or what the "other device" is.

26. Claim 12 recites "transfer to the different device is allowed to occur only after at least one of the device and the different device has been verified by the other device to be at least one of being compliant and being non revoked". The claim is indefinite because it is unclear to one



of ordinary skill in the art if the "non revoked applies to the device or the partial right that is being transferred.

27. Claim 13 recites "the device which transfers...". It is unclear if "the device" is same as "the device" as recited in claim 12.

28. Claim 14 recites "the method further comprising allowing at least one device in the system, wherein the usage right is associated with the content item by a content provider, wherein the usage right comprises an offer right (for a specific right), the method further comprising requesting the content provider to execute the offer right and deliver the specific right to a specified third party". The claim is indefinite because it is unclear to the one of ordinary skill in the art, what is being done by phrase "allowing at least one device in the system" as it is not clear what the device is performing after being allowed. Furthermore, it is not clear as to who is requesting the content provider to execute the offer right.

29. Claim 14 recites "a specified third party" in line 14 of page 4. It is not clear in the claim if "a specified third party" is part of the "system comprising a set of devices" as recited in claim 1 or is a person or an organization.

30. Claim 14 recites "verification of conditions that may apply," The phrase is indefinite because - to one of ordinary skill in this art – the metes and bounds of the phrase cannot be reasonably determined. To support this position, the Examiner notes the following: First, the Examiner has carefully reviewed the original specification and cannot locate a lexicographic definition with the required clarity, deliberateness, and precision. The original specification recites "other conditions can be checked ..." in line 25 of page 3 in the context of a device accepting a usage right, but does not define what "verification of conditions that may apply," as

verified by a content provider as recited in claim. Second, although the Examiner recognizes that each word within the phrase may have a particular meaning, the arrangement of these words within the context of this phrase does not reasonably apprise one of ordinary skill in this art the overall meaning of the claimed phrase. Third, the Examiner has again reviewed all documents of record in conjunction with MPEP §2141.03 including the original specification and claims.

Therefore based at least upon the three points noted above and using the required precepts of English grammar, it is the Examiner's position that the phrase "verification of conditions that may apply," (as used in the context of this particular claim) is neither lexicographically defined by Applicants nor known to those of ordinary skill in this art. However, if Applicants believe that the phrase is old and well known in the art, Applicants should (in their next appropriately filed response) expressly state on the record that the phrase is old and well known in the art and provide appropriate evidence in support thereof (*e.g.* a U.S. patent). Upon receiving (1) Applicants' express statement that the phrase is old and well known in the art and (2) sufficient evidence in support thereof, the Examiner will withdraw this particular 35 U.S.C. §112, 2nd paragraph rejection.

31. Claim 15 recites "means for a usage right associated with the content item" that invoke 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.

32. Claim 15 recites the limitation "arranged to perform" access control, and "arranged to verify individuality...." The claim is indefinite because the claim does not set forth the particular *structure* for performing the "arranged to" functions.

33. Claim 15 recites the limitation "arranged to verify individuality...." This phrase is indefinite because it is unclear what is meant by "individuality."

34. Claim 16 recites "a server system" and "means to". It is unclear as to what the *structure* of the apparatus is because the claim only recites "associating at least one usage right ..." and means to decompose usage right ...." The claim fails to recite structure.

35. Claim 18 recites "A device ..." and is rejected for the same reasons as noted above as it is unclear as to what the structure is because the claim only recites "being able to handle only usage right ..." and "arranged to handle usage right ..." but fails to recite any structure.

36. The Examiner finds that because the claims are indefinite under 35 U.S.C. §112 2<sup>nd</sup> paragraph, it is impossible to properly construe claim scope at this time. See *Honeywell International Inc. v. ITC*, 68 USPQ2d 1023, 1030 (Fed. Cir. 2003) ("Because the claims are indefinite, the claims, by definition, cannot be construed."). However, in accordance with MPEP §2173.06 and the USPTO's policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied *as much as practically possible*.

### ***Claim Rejections - 35 USC § 103***

37. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

38. Claims 1-12, 14-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al. (WO 01/63387) in view of Okamoto et al. (US 2004/0054678) further in view of Tadayon (US 2005/0187877).

39. With respect to claims 1, 16 and 18:

40. Richards discloses a method of controlling access (“control and/or enforce use rights and access rights”, ¶ [0004]) to a content item (“Content”, ¶¶ [0039] and [0137]) in a system comprising a set of devices (“a user/subscriber/apparatus 42”, ¶ [0060] and Fig. 1 item 42)

c. The method comprising a step of associating at least one usage right (“use right”, Abstract and ¶ [0006]) with the content item (“Content”, ¶¶ [0039] and [0137]), characterized in that the method further comprises decomposing the usage right into a set of partial rights (“also allows an owner of the data to define rules for rendering, accessing, and using the encoded data.”, ¶ [0026]) and subsequently separately signing each one of the set of partial rights (“Such rules can be a part of an encoding scheme.”, ¶ [0026]) resulting in a corresponding signature.

d. Richards discloses a policy component that define recipient's access rights to the data, such as the rights to "read/write", "save encoded", "save open", "no save", "server keyed", "render 1", "render 2", "Age 1", "Age 2", and "Use", etc. (¶¶ [0026] and [0068]) but does not explicitly disclose naming the separate rights as “partial rights”.

e. However, Okamoto teaches a "partial right" that is a subset of a right range.

f. Therefore it would have been obvious to the person having ordinary skill in the art at the time of invention to combine the secure content distribution service to a group of devices in a domain as disclosed by Richards with the system of a distribution device

storing a group of digital contents with right management information to facilitate “partial right” distribution as taught by Okamoto for the purposes of user convenience, fair distribution and cost effectiveness, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

g. Richards discloses authentication using existing standards for authentication such as a digital signature method or a public/private key exchange (§ [0096]) as part of an encoded scheme for transfer of content between devices, but does not explicitly disclose each one being separately signed.

h. However, Tadayon teaches using multiple signatures a content can manage and record its rights (“the rights to change, edit, copy, sign, or the like, can be passed on from the owner to the user. Associated with one or more of these rights can be document tracking actions. For example, using a digital signature, a document can manage and record its path of distribution, recording each user's interactivity with the document, including, for example, any assignment and/or distribution action, or any other information that may be relevant. Therefore, it is possible that a document will have associated therewith multiple signatures that represent, for example, a "snapshot" of the document as it was available to that particular user”, § [0029]).

i. Therefore it would have been obvious to the person having ordinary skill in the art at the time of invention to combine the secure content distribution service to a group of devices in a domain as disclosed by Richards with the system of a content distribution involving multiple digital signatures as the content and its rights are modified for the

purpose of added security and prevent unauthorized content access, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

41. With respect to claim 2:

42. Richards discloses wherein at least one device in the system is able to access (“a remote access device”, ¶ [0060]) and exercise at least one of the partial rights (“incorporating at least one encoded use right”, Abstract) after verification of the corresponding signature

43. With respect to claim 3:

44. Richards discloses wherein one of the partial rights associated with the content item comprises one of a render right, a transfer right, an offer right, a derivative work right, and a utility right (“rendering the decoded data type in accordance with the decoded use right”, ¶ [0018])

45. With respect to claim 4:

46. Richards discloses wherein at least one of the partial rights can only be exercised a limited number of times (“The "use" element defines the number of times that the data may be accessed or used”, ¶ [0068]).

47. With respect to claim 5:

48. Richards discloses wherein the method further comprises a step where one device of the set of devices verifies (“the remote apparatus determines whether the password or signature is valid in block 212”, ¶ [0120]) whether the partial right and the issuer thereof have both not been revoked before exercising the partial right.

49. With respect to claim 6:

50. Richards discloses wherein said system comprises a set of devices, making up a domain comprising of devices which are related to a household or limited group of consumers (Fig. 1, item 42).

51. With respect to claims 7 and 8:

52. Richards discloses wherein a minimum required protection level of at least one partial right is indicated along with the partial right and derived implicitly from the type of the partial right (“A composite file header is generated for the complete encoded file and for individual data types and is comprised of the pointers to each individual encoded data type and information that allows the process to control its logic and encode level. The logic and level flow information defines what key or key set are used to decode and how the decoding process occurs”, ¶¶ [0151], [0072], [0092] and [0120]).

53. With respect to claims 9 and 10:

54. Richards discloses wherein the method further comprises allowing at least one device in the system, to identify a different device, to subsequently sign information comprising a combination of at least one partial right and at least one out of an identification of the domain, an identification of the different device, and information about length and validity of the partial right, and to subsequently transfer this signed combination to the different device (“the persistent data control application passes the unique machine identifier to the secure server where the machine identifier is in the registry database and is used as one of the encode/decode keys for that specific remote apparatus”, ¶ [0090]).

55. With respect to claim 11:

56. Richards discloses wherein the different device participates as representing a different domain (Fig. 1, Item 42 and item 52).

57. With respect to claim 12:

58. Richards discloses wherein the transfer to the different device is allowed to occur only after at least one of the device and the different device has been verified by the other device to be at least one of being compliant and being non revoked (“remote apparatus retrieves the unique machine identifier, e.g., manufacturer's serial number, of that apparatus and uses it as one of the decode/encode keys. If the decode is successful, the apparatus has been validated”, ¶ [0089]).

59. With respect to claim 14:

60. Richards discloses wherein the method further comprising allowing at least one device in the system, wherein the usage right is associated with the content item by a content provider, wherein the usage right comprises an offer right (for a specific right), the method further comprising requesting the content provider to execute the offer right and deliver the specific right to a specified third party, upon which the content provider, after verification of conditions that may apply, delivers the specific right directly to the specified third party (“authentication methods”, ¶¶ [0048]-[0052]).

61. With respect to claim 15:

62. Richards discloses a client system comprising a set of devices, the client system being arranged to perform access control to a content item, with handling means for a usage right associated with the content item, characterized in that the usage right is a set of individually signed partial rights, and the client system is being arranged to verify individually and handle individually the partial rights (Figs. 1 and 2).



63. Claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable over Richards, Okamoto and Tadayon as described above and further in view of Lambert (US 7,509,421).

64. With respect to claim 13:

65. Richards discloses a policy component that define recipient's access rights to the data, such as the rights to "read/write", "save encoded", "save open", "no save", "server keyed", "render 1", "render 2", "Age 1", "Age 2", and "Use", etc. ([0026] and [0068]) but does not explicitly disclose deleting or revoking the rights.

66. However Lambert teaches rights being revoked ("being able to revoke those rights", C. 18, ll. 26-28)

67. Therefore it would have been obvious to the person having ordinary skill in the art at the time of invention to combine the secure content distribution service to a group of devices in a domain as disclosed by Richards with the digital rights management system capable of revoking the content rights as taught by Lambert for the purposes of added security and prevention of illegal use, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results

### ***Claim Interpretation***

68. Because claims 1-14, 16 and 18 recite neither "step for" nor "means for," claims 1-14, 16 and 18 fail Prong (A) as set forth in MPEP §2181. Because claims 1-14, 16 and 18 fail Prong (A) as set forth in MPEP §2181 I., the Examiner concludes that claims 1-14, 16 and 18 do not

invoke 35 U.S.C. §112, 6th Paragraph. See also *Ex parte Miyazaki*, 89 USPQ2d 1207, 1215-16 (B.P.A.I. 2008)(precedential).

69. The Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his interpretation of the claims. Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

- j. **For:** “1 a -- used as a function word to indicate purpose... b -- used as a function word to indicate an intended goal” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
- k. **Allow:** “3 b : to forbear or neglect to restrain or prevent.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
- l. **Associate:** “4 : to bring together or into relationship in any of various intangible ways (as in memory or imagination).” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

***Invocation of 35 U.S.C. § 112 6<sup>th</sup> Paragraph***

**Invocation:**

**Means Phrase #1**

70. It is the Examiner's position that the “means for a usage right associated with the content item...” in claim 15, line 18 of page 4 (“Means Phrase #1” or “MP#1”) invokes 35 U.S.C. §112 6th paragraph.

- m. MP#1 meets Invocation Prong (A) because “means for” is recited.
- n. MP#1 meets Invocation Prong (B) because the phrase recites the function of “a usage right associated with the content item...”. This function will have its ordinary and plain meaning.
- o. In accordance with MPEP §2181, the Examiner concludes that MP#1 meets Invocation Prong (C) because a review of the claim itself clearly shows that the claim does not recite sufficient structure for performing the claimed function.

**Means Phrase #2**

71. It is the Examiner’s position that the “means to decompose the usage” in claim 16, line 3 of page 5 (Means phrase #2 or MP#2) does not invoke 35 U.S.C. 112 6th paragraph.

- p. MP#2 does *not* meet Invocation Prong (A) because it does not recite “means for”.  
See MPEP 2181 I. Prong (A).

***Response to Arguments***

72. Applicants' arguments with respect to claims 1-16 and 18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

73. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

74. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MURALI K. DEGA whose telephone number is (571)270-5394. The examiner can normally be reached on Monday to Thursday 7.30 to 4.00 ET.

75. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571)272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

76. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M.K.D/

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/ANDREW J. FISCHER/

Supervisory Patent Examiner, Art Unit 3621